

SENATE RECORD VOTE ANALYSIS

104th Congress
2nd Session

Vote No. 94

April 30, 1996, 4:56 p.m.
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ILLEGAL IMMIGRATION/Deeming Exceptions, Legal-Illegal Aliens

SUBJECT: Immigration Control and Financial Responsibility Act of 1996 . . . S. 1664. Kennedy amendment No. 3820 and Kennedy amendment No. 3823 to the Dole (for Simpson) amendment No. 3743.

ACTION: AMENDMENTS REJECTED, 46-53

SYNOPSIS: As reported, S. 1664, the Immigration Control and Financial Responsibility Act of 1996, will address the issue of illegal immigration: by increasing the number of Border Patrol and investigative personnel; by establishing pilot programs to improve the system used by employers to verify citizenship or work-authorized alien status; by increasing penalties for alien smuggling and document fraud; by reforming asylum, exclusion, and deportation laws and procedures; and by reducing the use of welfare by aliens.

The Dole (for Simpson) perfecting amendment to the bill would strike all after the first word and would insert the text of the bill, as amended, with one technical change.

The Kennedy amendment to the Dole (for Simpson) amendment would exempt the following Federal welfare benefits from the requirement in this bill to deem the income and resources of an immigrant's sponsor to be the immigrant's income and resources for the purpose of determining that immigrant's eligibility for needs-based assistance: emergency medical care under title XIX of the Social Security Act; short-term, non-cash, in-kind emergency relief; benefits under the School Lunch Act; assistance under the Child Nutrition Act; public health assistance for immunizations and for testing and treatment of communicable diseases; assistance to victims of domestic violence or child abuse; student assistance programs under the Higher Education Act and the Public Health Service Act, including Pell grants; means-tested benefits under the Elementary and Secondary Education Act; Head Start benefits; and prenatal and postpartum services under title XIX of the Social Security Act.

The Kennedy amendment to the Dole (for Simpson) amendment would allow legal immigrants to receive means-tested benefits when public health was at stake, and would also allow them to receive those benefits under the school lunch program and other child nutrition programs, without being classified as public charges.

(Under current law, sponsors of immigrants sign affidavits saying that they will provide support if necessary to prevent those

(See other side)

YEAS (46)			NAYS (53)			NOT VOTING (1)	
Republicans (6 or 12%)	Democrats (40 or 85%)		Republicans (46 or 88%)	Democrats (7 or 15%)		Republicans (1)	Democrats (0)
Chafee	Akaka	Johnston	Abraham	Hatch	Baucus	Thompson- ²	EXPLANATION OF ABSENCE: 1—Official Buisiness 2—Necessarily Absent 3—Illness 4—Other SYMBOLS: AY—Announced Yea AN—Announced Nay PY—Paired Yea PN—Paired Nay
Hatfield	Bingaman	Kennedy	Ashcroft	Helms	Biden		
Jeffords	Boxer	Kerrey	Bennett	Hutchison	Bryan		
Mack	Bradley	Kerry	Bond	Inhofe	Heflin		
Snowe	Breaux	Kohl	Brown	Kassebaum	Levin		
Specter	Bumpers	Lautenberg	Burns	Kempthorne	Lieberman		
	Byrd	Leahy	Campbell	Kyl	Nunn		
	Conrad	Mikulski	Coats	Lott			
	Daschle	Moseley-Braun	Cochran	Lugar			
	Dodd	Moynihan	Cohen	McCain			
	Dorgan	Murray	Coverdell	McConnell			
	Exon	Pell	Craig	Murkowski			
	Feingold	Pryor	D'Amato	Nickles			
	Feinstein	Reid	DeWine	Pressler			
	Ford	Robb	Dole	Roth			
	Glenn	Rockefeller	Domenici	Santorum			
	Graham	Sarbanes	Faircloth	Shelby			
	Harkin	Simon	Frist	Simpson			
	Hollings	Wellstone	Gorton	Smith			
	Inouye	Wyden	Gramm	Stevens			
			Grams	Thomas			
			Grassley	Thurmond			
			Gregg	Warner			

immigrants from becoming public charges. Those affidavits of support are a condition of entry, but a series of court decisions have made them legally unenforceable. This bill will make an affidavit enforceable until an alien becomes a citizen or has worked 40 or more Social Security quarters without receiving welfare. Further, when determining eligibility for a sponsored immigrant for any means-tested Federal program (except for soup kitchens, the school lunch program, and the Women, Infants, and Children (WIC) program), the sponsor's income and resources will be deemed to be the immigrant's income and resources for 5 years after the immigrant's entry or for as long as the sponsor's affidavit is legally enforceable. Finally, aliens who receive welfare benefits for more than 12 months during the first 5 years they are in the United States will be classified as "public charges" and will be deportable. Refugees, asylees, and immigrants with severe disabilities will be exempted from this last provision.)

NOTE: By unanimous consent, the Kennedy amendments were offered, debated, and voted on en bloc.

Those favoring the amendments contended:

The first Kennedy amendment would make legal immigrants eligible for Pell Grants, school lunches, the Head Start Program, emergency aid, immunizations, and other programs without regard to the income and resources of their sponsors. The bill will require their sponsors' income and resources to be counted as theirs when determining their eligibility. We think this requirement is wrong. Legal immigrants work and pay taxes. When they need a little extra help to afford college, they should not have their supposed income effectively doubled or tripled by making them count their sponsors' income as their own when applying for help. That income obviously is not theirs; their sponsors need it to take care of themselves. Without the Kennedy amendment, it will be virtually impossible for legal immigrants to qualify for Pell Grants and many other programs that benefit average, hard-working Americans. The second Kennedy amendment would make legal immigrants eligible for the same needs-based benefits that this bill will allow illegal immigrants to receive. We think, as a simple matter of justice, that we should not give better treatment to people who illegally sneak into this country than to those people who enter legally. Both of the Kennedy amendments should be adopted.

Those opposing the amendments contended:

Since 1882 United States law has stated that no one may immigrate to this country who is "likely at any time to become a public charge." Many immigrants--about half--are only admitted if they have sponsors in the United States who promise that they will provide them support. Sponsors guarantee that the sponsored immigrants will not require any public assistance, ever. We, and most Americans, strongly support that law, and strongly support making sponsors live up to their promises to provide support if need be. Unfortunately, a series of court rulings have made sponsorship unenforceable. A huge number of immigrants now enter this country and immediately begin receiving a wide variety of welfare benefits without receiving a dime of assistance from their sponsors. This bill will fix that problem in several ways, one of which will be to deem the income and resources of an immigrant's sponsor to be the immigrant's income and resources when determining eligibility for all Federal needs-based benefits, and another of which will be to make sponsors' affidavits of support legally enforceable. The effect of these changes will be to make sponsors, not the taxpayers, responsible for paying for any needed assistance.

Our colleagues object that they think in some circumstances that a sponsor should not be held to his or her promise, and they have offered these two amendments that cover some of those circumstances that they think should be exempt. They think that a sponsor's promise to provide support should not count when that support is to pay for emergency Medicaid, when it is to pay for Headstart and Pell Grants, when it is to pay for foster care, or when it is to pay for welfare benefits that are not denied for illegal aliens. We disagree on all counts. Headstart, for example, only serves about 30 percent of the eligible population. We do not think that it is fair for someone who has money, and who promises to support an immigrant that they bring over, to have that immigrant's child receive scarce welfare benefits for Headstart. If that child needs special early education services, then the sponsor should pay, not the taxpayers. The same goes for every other needs-based program.

As for the argument that legal immigrants should at least get the same benefits as illegal aliens get, we note that our colleagues are presenting a very incomplete picture of the treatment that is given to legal and illegal aliens. In very limited circumstances, such as when an illegal alien has a life-threatening medical emergency, then of course emergency medical benefits should not be withheld. In such a case, the cost has to be assumed by the taxpayers because no sponsor exists. For legal aliens, the situation is different. First, a sponsor's income must be counted, but if a sponsor is unable to help aid will not be denied. When a sponsor is destitute or dead, a legal alien is entitled to all welfare benefits, but only for 12 months in the first 5 years. If that alien stays on welfare longer, he or she will then be deportable as a public charge. Illegal aliens, of course, can be deported as soon as they are apprehended. The treatment is thus totally different. A legal immigrant is never denied any benefits; if his or her sponsor cannot pay, then the Government will pay. An illegal immigrant will get very few benefits, and will be deported as soon as he or she is identified. No preferential treatment is being given to illegal aliens. The bottom-line question that is raised by the Kennedy amendments is who should have to pay for legal immigrants who are in need: the taxpayers or the sponsors who promised that they would provide support? We answer the latter, and thus oppose these amendments.